

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

**JOHN W. KARCZ, JR., and
JENNIFER A. KARCZ,**

Plaintiffs

-v-

16-CV-0628V(Sr)

**CITY OF NORTH TONAWANDA,
THE COUNTY OF NIAGARA,
SHAWN P. NICKERSON,
WILLIAM R. HALL,
THOMAS E. KRANTZ,
KAREN SMITH,
JAMES MUEHLBAUER,
LAWRENCE KUEBLER,
SCOTT WILLARD,
TERRY HUEY,
DANIEL MAHONEY,
JEFF SHISELEY,
RICHARD WYDYSH,
JAMES R. VOUTOUR,
SCOTT LOMBARDO,
RONALD P. DWORZANSKI,
MICHAEL VIOLANTE,
LAURA T. BITTNER, and
KEVIN D. CANALI,**

Defendants.

ORDER

This case was referred to the undersigned by the Hon. Lawrence J. Vilardo, pursuant to 28 U.S.C. § 636(b)(1), for all pretrial matters and to hear and report upon dispositive motions. Dkt. #57.

By Decision and Order entered January 27, 2025, Judge Vilardo adopted this Court's Report, Recommendation and Order and dismissed plaintiffs' claims against

the County of Niagara, Niagara County Sheriff James R. Voutour, Niagara County District Attorney Michael Violante, Niagara County Assistant District Attorney Laura T. Bittner, and Niagara County Assistant District Attorney Kevin D. Kanali. Dkt. #104.

By Text Order entered January 30, 2025, the Court set a Telephone Scheduling Conference for February 11, 2025 at 10:30 am. Dkt. #105.

Plaintiffs did not appear at the Status Conference as directed.

Instead, plaintiff John W, Karcz, Jr. filed a motion for judicial intervention complaining about this Court's decision granting his attorney's motion to withdraw from representing plaintiffs. Dkt. #112. Mr. Karcz complains that his former attorney has not returned evidence relating to this matter and other proceedings and asks the Court to order counsel "to complete the cases that he vehemently pursued and lobbied to represent myself and my wife in." Dkt. #112. Plaintiff argues that his former attorney should not be allowed to "quit" and that this Court's decision to force plaintiff "to proceed *pro se* arbitrarily and capriciously biases the case(s) to the benefit of defense counsel." Dkt. #112.

Plaintiffs are well aware of the basis of counsel's motion to withdraw. Dkt. #115. Furthermore, the Court is not requiring plaintiff to proceed *pro se*. Rather, the Court directed plaintiff to "retain new counsel, who shall file a notice of appearance, or advise the Court that he is proceeding without counsel." 20-CV-1045 at Dkt. #49. By letter dated March 10, 2023, plaintiff advised the Court that he and his wife would

proceed *pro se* in all matters pending,¹ including this case. Dkt. #98. Plaintiffs retain the right to hire counsel of their choosing; should plaintiffs choose to do so, counsel shall promptly file a notice of appearance.

Absent the filing of a notice of appearance by counsel, plaintiffs are ordered to appear for a Telephone Scheduling Conference at **11:00 am** on **April 10, 2025**. The parties are directed to dial 716-764-9100 and use Conference ID 225 973 925# in order to be connected to the conference.

Plaintiffs are forewarned that their failure to abide by this Order will result in a recommendation that this matter be dismissed with prejudice for failure to prosecute pursuant to Fed.R.Civ.P. 41(b).

In light of Mr. Karcz's representation that former counsel has not returned evidence to plaintiffs, the Court directs the Clerk of the Court to provide a copy of this Order to plaintiffs' former counsel, who shall file a declaration with the Court with respect to this representation no later than April 8, 2025.

SO ORDERED.

DATED: Buffalo, New York
March 18, 2025

s/ H. Kenneth Schroeder, Jr.
H. KENNETH SCHROEDER, JR.
United States Magistrate Judge

¹ In addition to 16-CV-628, John W. Karcz, Jr. is also a plaintiff in 16-CV-693, 20-CV-9, and 20-CV-1045.